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N.J. ACUPUNCTURE BOARD
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FILED

JULY 25, 2005

**NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS**

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STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
ACUPUNCTURE EXAMINING BOARD

IN THE MATTER OF THE CERTIFICATE	:	Administrative Action
OF:	:	
	:	
ANDREW ROSENFARB, C.A.	:	CONSENT ORDER
	:	
TO PRACTICE ACUPUNCTURE IN THE	:	
STATE OF NEW JERSEY	:	

This matter was opened to the Acupuncture Examining Board ("Board") on the receipt of information that on June 16, 2004 Andrew Rosenfarb, ("Respondent") pled guilty to a third degree crime of health care claims fraud in violation of N.J.S.A. 2C:21-4.2 and 4.3. On June 16, 2004 Respondent also entered into a Consent Order with the Office of Insurance Fraud Prosecutor for having recklessly prepared and presented written documents to Encompass Insurance Company, claim #08101226, and State Farm

CERTIFIED TRUE COPY

Insurance Company, claim #304285307, containing false and misleading information. Specifically, he submitted two separate health insurance claim forms for services not rendered in violation of N.J.S.A. 17:33 A-1 et seq. Respondent has agreed to pay restitution in the amount of \$1,530.00 to State Farm Insurance Company. Reimbursement to Encompass Insurance Company was not required as that company had not made any payment to Respondent for claims he submitted. Under the terms of the Consent Order respondent agreed to pay a civil administrative penalty of \$10,000.00.

On July 21, 2004, Respondent appeared before the Board represented by Peter Bennett, Esq. and testified under oath concerning the events which occurred leading to his guilty plea and entering into a Consent Order with the Office of Insurance Fraud Prosecutor. The June 16, 2004 plea agreement entered into by Respondent and the Division of Criminal Justice, Office of Insurance Fraud Prosecutor (OIFP), required Respondent to enter into a Consent Order of Suspension of license with this Board on or before the date Respondent is to be sentenced by the Court. Respondent testified about his payment of full restitution to State Farm Insurance Company, the audit of all Respondent's records relating to insurance claims and the remedial measures he has taken in his practice. With regard to remedial measures, Respondent discussed his contract with David Singer Enterprises for training in the areas of general office management, front

desk/administrative procedures, insurance billing, marketing and patient communication/education. Respondent also testified he had earned one (1) CEU from Blue Poppy Institute for course work in Managing and Avoiding Risk in an Acupuncture practice, and earned two (2) CEU credits in medical record keeping for health care professionals and in HIV and AIDS prevention from Arc Mesa Education, an online continuing education service. Respondent further testified that in December 2003, he acquired a new accounting system in the practice, (Ginko Software TM) to reduce the risk of potential errors. Respondent admitted in his testimony before the Board that he recklessly committed health care claims fraud when he submitted health care claims for services not rendered to two patients. In testifying about the health care claims he submitted to State Farm Insurance Company, Respondent admitted that he had been lackadaisical and sloppy with regard to recordkeeping and he indicated that the office administrative staff, for which he was responsible had been poorly trained. In the plea agreement, Respondent agreed to a suspension of his license to practice acupuncture for a minimum period of twelve months, at least six months of which must be an active suspension. Respondent's Consent Order with OIFP provides that it may be used against him in any civil or administrative proceeding related to a violation of N.J.S.A. 17:33A-1 et seq., including a license suspension or revocation proceeding.

On September 15, 2004, Respondent appeared before the Board and testified that on September 10, 2004, he had been sentenced by Union County Superior Court Judge Wertheimer to three (3) years probation, to pay restitution in the amount of \$1530.00 to State Farm Insurance Company and mandatory fines of \$50.00 VCCB, \$75.00 Safe Neighborhoods and \$30.00 Law Enforcement Training. Counsel also represented that Judge Wertheimer ordered the suspension of Mr. Rosenfarb's acupuncture license for a minimum of one year, at least six (6) months of which must be active suspension. Respondent sought the appearance before the Board to request an opportunity to petition for a reduction of the one year period of active suspension or reinstatement of his acupuncture certificate prior to the expiration of the first six months of active suspension. Respondent also sought clarification from the Board as to what unregulated activities he may engage in during the period of active suspension.

Respondent waiving any right he may have to a hearing in this matter, and the Board being satisfied that the public interest is adequately protected by the entry of the within Order, and that good cause exists for entry of the within Order;

ACCORDINGLY, IT IS ON THIS 21 DAY OF October, 2004,

ORDERED AND AGREED

1. Respondent's certificate to practice acupuncture shall be, and hereby is, suspended for a period of two (2) years,

the first year of which shall be an active suspension, the remaining one year shall be stayed, to be served as a period of probation. Respondent may apply for a reduction of the one year period of active suspension after the first six (6) months are completed. The period of active suspension shall commence thirty (30) days from the entry date of this Order.

2. Respondent shall take the "PRIME" or "PRoBE" ethics course and provide proof of his full attendance at, and successful completion of, this course within six (6) months of the entry date of this Order.

3. During the period of active suspension Respondent shall take a record keeping course offered by Antoinette M. Revel, (who can be reached at (215)343-7101 or toni.revel @ verizon). Upon completion of this course Respondent is responsible to ensure that Ms. Revel provides a report to the Board.

4. In addition to any continuing education required for licensure, Respondent shall complete ten (10) continuing education credits for every six months during which his license is suspended in the practice of acupuncture, in order to keep his clinical and academic skills active. Online courses shall not fulfill this requirement. Prior to reinstatement of his certification, Respondent shall show the Board proof of completion of this requirement.

5. Respondent shall enroll in and attend psychotherapy on a biweekly basis, with a Board approved therapist for a minimum

of one year. Respondent shall be responsible to ensure that the therapist shall provide quarterly reports on Respondent's progress to the Board.

6. Respondent shall submit to random monitoring and audits of his patient records by a Board approved expert during the period of probation, with quarterly reports of the results of the monitoring/audits to be provided to the Board.

7. After the first six months of the active suspension period has passed, Respondent shall appear before the Board in connection with a petition for reduction of the period of active suspension and/or reinstatement of his certificate to practice acupuncture in the State of New Jersey. At that time, the burden shall be upon Respondent to demonstrate that he is fit and competent to practice acupuncture and that he has fully complied with the terms of this Order set forth in Paragraphs 2 through 5 above. The Board, in its sole discretion, may find that Respondent has, in good faith, complied with these terms and it may reduce the period of active suspension to six months.

8. Respondent agrees that he shall follow this Board's Directives Regarding Future Activities of Board Acupuncturists Who Have Been Suspended/Revoked and Use of the Professional Premises, a copy of which is attached hereto and made a part hereof.

9. Respondent agrees that he is prohibited from engaging in the following activities during the period of active suspension: Massage/Acupressure/Stretching, Herbal Medicine,

Needle-free Acupuncture (laser and micro-current), Cupping, Gwa Sha Massage, and Essential Oils on Acupressure Points.

10. All costs to complete the requirements set forth above shall be borne by Respondent.

ACUPUNCTURE EXAMINING BOARD

By: Mimi Vassilev-Baker
Mimi Vassilev-Baker
Secretary

I have read and understood
the within Order and agree to
be bound by its terms. Consent
is hereby given to the Acupuncture
Examining Board to enter this Order.

A.S.R.
Andrew Rosenfarb, C.A.

Consent as to form and entry:

Peter Bennett
Peter Bennett, Esq.
Attorney for Andrew Rosenfarb, C.A.

DIRECTIVES REGARDING FUTURE ACTIVITIES
OF BOARD ACUPUNCTURIST WHO HAS BEEN SUSPENDED/
REVOKED AND USE OF THE PROFESSIONAL PREMISES

A practitioner whose certificate is suspended or revoked or whose surrender of certificate with or without prejudice has been accepted by the Board shall conduct him/herself as follows.

- 1) Promptly deliver to the Board the original certificate and current biennial registration.
- 2) Desist and refrain from the practice of acupuncture in any form either as principal or as employer of as employee or agent of another certificate holder or other health care provider.
- 3) Inform each patient at the time of any inquiry of the suspended or revoked status of the acupuncturist. When a new acupuncturist is selected by a patient, the original or a complete copy of the existing patient record to the new acupuncturist. If no new acupuncturist is selected, the record shall be made available to the patient. Such delivery of record does not waive any right of the disciplined acupuncturist to claim compensation earned for prior services lawfully rendered.
- 4) Not occupy, share or use office space in which another certificate holder practices acupuncture.
- 5) Desist and refrain from furnishing acupuncture services, giving an opinion as to the practice of acupuncture or its application or any advice with relation thereto; from holding him/herself out to the public as being entitled to practice acupuncture; or from advertising or writing in such a manner as to convey to the public the impression that such person is a legal acupuncture practitioner or authorized to practice acupuncture. This prohibition includes refraining during the period of suspension or revocation from placement of any advertisement or professional listing in any advertising medium suggesting eligibility for practice or good standing. This prohibition further shall include the preparation of any report or appearance before any court or tribunal as an expert witness unless the case involves a matter handled prior to being disciplined and unless the status of the acupuncturist is disclosed in writing to the person requesting such report or appearance.
- 6) Cease to use any stationery whereon such person's name appears as an acupuncturist in practice.

7) Not share in any fee for acupuncture services performed by any other certified acupuncturist following the suspension, revocation or surrender of license, but the disciplined acupuncturist may be compensated for the reasonable value of the acupuncture services lawfully rendered and disbursements incurred on the patient's behalf prior to the effective date of the suspension, revocation or surrender.

8) Use of the professional premises. The disciplined acupuncturist may allow another certified acupuncturist to use the office premises formerly occupied by the disciplined acupuncturist on the following conditions only:

(a) The new certified acupuncturist shall conduct the practice in every respect as his/her own practice including billings, claim forms, insurance provider numbers, telephone numbers, etc.

(b) The disciplined acupuncturist may accept no portion of the fees for professional services rendered by the new certified acupuncturist whether by percentage of revenue, per capita patient, or by any other device or design, however denominated. The disciplined acupuncturist may, however, contract for or accept payment from the new certified acupuncturist for rent (not exceeding fair market value) of the premises and either dispose of or store any materials and equipment.

(c) No continued use of name of the disciplined acupuncturist personally owned office name or tax or provider identification number.

1. Where the disciplined acupuncturist was using an individual IRS number or where the acupuncturist was the sole member of an incorporated professional association or a corporation, the disciplined acupuncturist may contract to rent the office premises to a new practitioner. The new practitioner may use his/her own name and own provider number on all bills and insurance claim forms. Neither the name nor the number of the disciplined acupuncturist may be used. When the certificate of a sole acupuncturist has been revoked, a trade name must be cancelled and a professional service corporation must be dissolved.
2. Where the disciplined acupuncturist is a member of a professional group which uses a group-type name such as the ABC Acupuncture

Group, the disciplined acupuncturist must arrange to have his/her name deleted, covered up or otherwise obliterated on all office signs, advertisements published by the group after the effective date of the Board disciplinary order and on all printed billings and stationery. The other group members may continue to function under the incorporated or trade name, minus the name of the disciplined acupuncturist, and may continue to use its corporate or professional identification number.

9) Report promptly to the Board compliance with each directive of the order requiring moneys to be reimbursed to patients or to other persons or third part payors, and regarding supervisory reports or other special conditions of the order.

10) An acupuncturist whose certificate is surrendered, revoked or actively suspended for one year or more shall conduct him/herself as follows:

a) promptly require the publishers of any professional directory and any other professional list in which such acupuncturist's name is known by the disciplined acupuncturist to appear to remove any such listing.

b) Promptly require any and all telephone companies to remove the acupuncturist's listing in any telephone directory indicating that such practitioner is a practicing acupuncturist.

11) An acupuncturist whose practice privileges are affected by a Board disciplinary order shall, within 90 days after the effective date of the Board order, file with the Executive Director of the Board a detailed affidavit specifying by correlatively lettered and numbered paragraphs how such person has fully complied with this directive. The affidavit shall also set forth the residence or other address and telephone number to which communications may be directed to such person. Any change in the residence, address or telephone number shall be promptly reported to the Executive Director.